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SIMMONS, PERRINE, ALBRIGHT & ELLWOOD, P.L.C. THIRD FLOOR TOWER PLACE 22 SOUTH LINN STREET IOWA CITY, IA 52240				
			EXAMINER SALTARELLI, DOMINIC D	
			ART UNIT 2611	PAPER NUMBER

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/681,845	<b>Applicant(s)</b> FRANKEN ET AL.	
	<b>Examiner</b> Dominic D. Saltarelli	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/12/02</u> . | 6) <input type="checkbox"/> Other: _____  |

*ca*

## **DETAILED ACTION**

### ***Priority***

1. This application is a Continuation-In-Part of prior Application No. 09/538,215, filed March 30, 2000, and adds and claims additional disclosure not presented in the prior application. Each independent claim recites additional limitations not supported by the prior application, thus the effective filing data of claims 1-17 is June 15, 2001.

### ***Claim Objections***

2. Claims 16 and 17 are objected to because of the following informalities: Claims 16 and 17 depend on claim 12, however, there is an intervening independent claim (claim 13). A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim. A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

3. Claim 7 is objected to because of the following informalities: On line 1, "claim 5" should read --claim 6--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, on lines 5-6, the phrase "and among other things" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "among other things"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

Regarding claim 1, on lines 22-23, the phrase "various signal distribution mechanisms" renders the claims indefinite because the claim includes elements not actually disclosed (those encompassed by "*various* signal distribution mechanisms"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

Regarding claim 12, on lines 22-23, the phrase "various signal distribution mechanisms" renders the claims indefinite because the claim includes elements not actually disclosed (those encompassed by "*various* signal distribution mechanisms"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 12, 16, and 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 11 of U.S. Patent No. 6,252,547 in view of Madison (US 2002/0023123 A1), McNutt et al. (US 2001/0037211 A1) [McNutt], and Schneidewend et al. (6,182,287) [Schneidewend].

Regarding claim 1 of the instant application:

- On line 1 "A system for authorizing broadcast reception" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 1-2 "An apparatus for regulating access to electronic digital communication signals".
- On lines 2-4 "an authorization server which includes and is adapted and configured by software therein which receives a geographic location and programming request input" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 3-5, which discloses receiving a geographic location via "means for locating latitude and longitude coordinate for a particular location on the surface of the earth, and generating a location signal in response thereto", which fails to disclose receiving a programming request. In an analogous art, Madison, on paragraphs 16 and 33, teaches a system wherein

users access a website that offers regionally specific content, which is a programming request input, for the benefit of accessing content of interest to a user. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include receiving a programming request, as taught by Madison, for the benefit of allowing users to access content of interest.

- On lines 5-10 "said authorization server further includes a What Channels Server and among other things, is adapted and configured by software to perform a signal strength calculation for a first location of a terrestrial broadcast signal, which is broadcast from a second location, where said signal strength calculation determines that a signal strength of said terrestrial broadcast signal at said first location exceeds a predetermined threshold" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 6-9 and all of claim 5, which discloses measuring the signal strength of a terrestrially broadcast television signal using a signal strength calculator and determining if said signal strength is above a predetermined threshold.
- On lines 11-14, "said authorization server further includes a distance from a point calculator which supplies information used for authorization for availability of programming to said first location

based upon a geographic calculation that said first location is within a predetermined radius from a third location" corresponds to U.S. Patent No. 6,252,547, claim 5, lines 5-7 "...and further using a Puckett point-in-polygon tester to compare said coordinates with points inside said geographic reception area", which fails to disclose "said first location is within a predetermined radius from a third location". In an analogous art, Madison, in paragraph 16, teaches applying "blackout", the restriction of broadcasting a sporting event to viewers within a certain distance from the venue from which the sporting event is occurring, to internet broadcasts, for the benefit of protecting the interests of copyright holders over their content. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include said first location is within a predetermined radius from a third location, as taught by Madison, for the benefit of protecting the interests of copyright holders over their content.

- On lines 15-16 "said authorization server further coupled to a location database/geocoder which returns a lat/lon when provided with a street address" corresponds to U.S. Patent No. 6,252,547, claim 4 "said means for locating a latitude and longitude coordinate for a particular location includes a geocoding server, which takes

street addresses and generates corresponding latitude and longitude coordinates”.

- On lines 17-20 “said authorization server further including software and is adapted and configured to provide information used for authorization of programming to said first location if said first location is located in a GIS boundary, as determined by a GIS boundary computer” corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 “means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location”, which fails to disclose if said first location is located in a GIS boundary, as determined by a GIS boundary computer. In an analogous art, Madison, on paragraph 11, teaches controlling access to content from a host to a client by a computer based upon the particular geographic *area* in which the client is located, for the benefit of restricting access to content to protect the rights of copyright owners (paragraph 16). It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include determining if said first location is located in a GIS boundary, as determined by a GIS boundary computer, as taught by Madison, for the benefit of



restricting access to content to protect the rights of copyright owners.

- On lines 21-24 "a programming content and business rule database which includes a list of programming options which are available over various signal distribution mechanisms to said first location and includes a plurality of business rules used for authorizing delivery of programming" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 "means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location" which fails to disclose a programming content and business rule database that includes a plurality of business rules used for authorizing and delivery of programming. In an analogous art, McNutt, who teaches a content and business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content (databases contain location information and identifies where different types of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of ensuring legal conformity by the distribution system. It would have been obvious at the time to a person of ordinary skill in

the art to modify the system of U.S. Patent No. 6,252,547 to include a content and business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content, as taught by McNutt, for the benefit of ensuring legal conformity of content distribution by the distribution system.

- On lines 25-30 "said authorization server is adapted and configured to determine eligibility for said geographic location and programming request input and repetitively compute additional requests and thereby provide a location specific authorized content list which is a subset of said programming content database where programming content has been excluded based upon authorization denials determined by said authorization server" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 "means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location" which fails to disclose a content list which is a subset of said programming content database. In an analogous art, Schneidewend teaches creating content lists that are a subset (abbreviated list, col. 5, lines 9-14) of a complete list of available content which is generated based on

records of used services (col. 5, lines 63-66) that are displayed for a particular location (list is generated for a particular user, col. 5, lines 36-38), for the benefit of allowing a user to quickly find available services (col. 5, lines 9-14). It would have been obvious at the time to a person of ordinary skill in the art to modify the system of U.S. Patent No. 6,252,547 to include a content list which is a subset of said programming content database, as taught by Schneidewend, for the benefit of allowing a user to quickly find available services.

Regarding claim 12 of the instant application:

- On line 1 "A system for authorizing broadcast reception" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 1-2 "An apparatus for regulating access to electronic digital communication signals".
- On lines 2-4 "an authorization server which includes and is adapted and configured by software therein which receives a geographic location and programming request input" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 3-5, which discloses receiving a geographic location via "means for locating latitude and longitude coordinate for a particular location on the surface of the earth, and generating a location signal in response thereto" which fails to

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disclose receiving a programming request. In an analogous art, Madison, on paragraphs 16 and 33, teaches a system wherein users access a website that offers regionally specific content, which is a programming request input, for the benefit of accessing content of interest to a user. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include receiving a programming request, as taught by Madison, for the benefit of allowing users to access content of interest.

- On lines 5-10 "said authorization server further includes a first component which is adapted and configured by software to perform a signal strength calculation for a first location of a terrestrial broadcast signal, which is broadcast from a second location, where said signal strength calculation determines that a signal strength of said terrestrial broadcast signal at said first location exceeds a predetermined threshold" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 6-9 and all of claim 5, which discloses measuring the signal strength of a terrestrially broadcast television signal using a signal strength calculator and determining if said signal strength is above a predetermined threshold.
- On lines 11-14, "said authorization server further includes a distance from a point calculator which supplies information used for

authorization for availability of programming to said first location based upon a geographic calculation that said first location is within a predetermined radius from a third location" corresponds to U.S. Patent No. 6,252,547, claim 5, lines 5-7 "...and further using a Puckett point-in-polygon tester to compare said coordinates with points inside said geographic reception area" which fails to disclose "said first location is within a predetermined radius from a third location". In an analogous art, Madison, in paragraph 16, teaches applying "blackout", the restriction of broadcasting a sporting event to viewers within a certain distance from the venue from which the sporting event is occurring, to internet broadcasts, for the benefit of protecting the interests of copyright holders over their content. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include said first location is within a predetermined radius from a third location, as taught by Madison, for the benefit of protecting the interests of copyright holders over their content.

- On lines 15-16 "said authorization server further coupled to a location database/geocoder which returns a lat/lon when provided with a street address" corresponds to U.S. Patent No. 6,252,547, claim 4 "said means for locating a latitude and longitude coordinate for a particular location includes a geocoding server, which takes

street addresses and generates corresponding latitude and longitude coordinates”.

- On lines 17-20 “said authorization server further including software and is adapted and configured to provide information used for authorization of programming to said first location if said first location is located in a predetermined first boundary, as determined by a boundary computer” corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 “means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location” which fails to disclose doing so if said first location is located in a predetermined boundary, as determined by a boundary computer. In an analogous art, Madison, on paragraph 11, teaches controlling access to content from a host to a client by a computer based upon the particular geographic *area* in which the client is located, for the benefit of restricting access to content to protect the rights of copyright owners (paragraph 16). It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include determining if said first location is located in a predetermined boundary, as determined by a boundary computer,

as taught by Madison, for the benefit of restricting access to content to protect the rights of copyright owners.

- On lines 21-25 "a programming content and signal authorization algorithm database which includes a list of programming options which are available over various signal distribution mechanisms to said first location and includes a plurality of predetermined signal authorization algorithms used for authorizing delivery of programming" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 "means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location" which fails to disclose a programming content and signal authorization algorithm database that includes a plurality of signal authorization algorithms used for authorizing and delivery of programming. In an analogous art, McNutt, who teaches a content and signal authorization algorithm database which includes a list of options which are available to users to a first location and includes a plurality of signal authorization algorithms used for authorizing content (databases contain location information and identifies where different types of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of ensuring legal

conformity by the distribution system. It would have been obvious at the time to a person of ordinary skill in the art to modify the system of U.S. Patent No. 6,252,547 to include a content and signal authorization algorithm database which includes a list of options which are available to users to a first location and includes a plurality of signal authorization algorithms used for authorizing content, as taught by McNutt, for the benefit of ensuring legal conformity of content distribution by the distribution system.

- On lines 26-31 "said authorization server is adapted and configured to determine eligibility for said geographic location and programming request input and repetitively compute additional requests and thereby provide a location specific authorized content list which is a subset of said programming content database where programming content has been excluded based upon authorization denials determined by said authorization server" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 "means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location" which fails to disclose a content list which is a subset of said programming content database. In an analogous art, Schneidewend teaches creating



content lists that are a subset (abbreviated list, col. 5, lines 9-14) of a complete list of available content which is generated based on records of used services (col. 5, lines 63-66) that are displayed for a particular location (list is generated for a particular user, col. 5, lines 36-38), for the benefit of allowing a user to quickly find available services (col. 5, lines 9-14). It would have been obvious at the time to a person of ordinary skill in the art to modify the system of U.S. Patent No. 6,252,547 to include a content list which is a subset of said programming content database, as taught by Schneidewend, for the benefit of allowing a user to quickly find available services.

Regarding claim 16 of the instant application:

- On lines 1-2 "wherein said programming content database contains radio programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 12-13 "electronic digital signals received at said predetermined location", which fails to disclose radio programming. Examiner takes official notice that it is notoriously well known in the art to provide radio broadcast programming from a content server over the Internet, allowing users to enjoy radio broadcasts from their computers. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by

U.S. Patent No. 6,252,547 to include radio programming, for the benefit of allowing users to enjoy radio broadcast content from their computers.

Regarding claim 17 of the instant application:

- On lines 1-2 "wherein said programming content database contains television programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 12-13 "electronic digital signals received at said predetermined location" which fails to disclose television programming. In an analogous art Madison teaches receiving sporting event broadcasts at client systems (paragraph 16, wherein users outside the "black out" region may request the broadcasts), for the benefit of receiving conventional television programming. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include television programming, for the benefit of receiving conventional television programming.

8. Claims 2, 3, 5-10, and 13-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 11 of U.S. Patent No. 6,252,547 in view of Madison and McNutt.

Regarding claim 2 of the instant application:

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- On line 1, "A method of authorizing distribution of programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 1-2 "A method of regulating electronic digital communication signals".
- On lines 3-4 "providing a geographic location and programming request to an authorization server" corresponds to U.S. Patent No. 6,252,547, claim 11, line 3 "receiving an address of a predetermined location" which fails to disclose a programming request. In an analogous art, Madison, on paragraphs 16 and 33, teaches users access a website that offers regionally specific content, which is a programming request input, for the benefit of allowing users to access content of interest. It would have been obvious at the time to a person of ordinary skill in the art to modify the method of U.S. Patent No. 6,252,547 to include a programming request, as taught by Madison, for the benefit of allowing users to access content of interest.
- On lines 5-12 "returning a set of business rules which are stored in a database; wherein said business rules are selected from said database based upon both a geographic location component and a programming component of said geographic location and programming request, said database includes at least one business rule which is not based solely upon a signal strength of a terrestrially broadcast signal; and processing said set of business

rules to generate an indication of eligibility of reception of programming” corresponds to U.S. Patent No. 6,252,547, claim 11, lines 11-13 “...regulating access to electronic digital signals received at said predetermined location” which fails to disclose a set of business rules which are stored in a database; wherein said business rules are selected from said database based upon both a geographic location component and a programming component of said geographic location and programming request, said database includes at least one business rule which is not based solely upon a signal strength of a terrestrially broadcast signal; and processing said set of business rules to generate an indication of eligibility of reception of programming. In an analogous art, McNutt teaches a business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content (databases contain location information and identifies where different *types* of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of ensuring legal conformity by the distribution system. It would have been obvious at the time to a person of ordinary skill in the art to modify the method of U.S. Patent No. 6,252,547 to include a business rule database which includes a list of options which are available to users to a first location and includes a

plurality of business rules used for authorizing content, as taught by McNutt, for the benefit of ensuring legal conformity of content distribution by the distribution system.

Regarding claim 3 of the instant application:

- On lines 1-5 “wherein said geographic location and programming request includes a first street address and said authorization server is coupled to a location database/geocoder, which is adapted and configured to generate a first lat/lon reference which corresponds to said first street address” corresponds to U.S. Patent No. 6,252,547, claim 11, lines 3-5 “receiving an address of a predetermined location and generating a geographic reference signal having a predetermined signal format in response thereto”, wherein the address received is a street address, as shown in claim 4 of U.S. Patent No. 6,252,547, wherein the street address is utilized by a geocoder to generate a latitude and longitude coordinate for a particular location, which is the “predetermined signal format”.

Regarding claim 5 of the instant application:

- On lines 1-4 "said set of business rules includes a software algorithm which relates to distance from a point calculation which analyzes a distance separation between said first street address and a second geographic location" corresponds to U.S. Patent No. 6,252,547, claims 1 and 5, "using a Puckett point-in-polygon tester to compare said coordinates with points inside said geographic reception area" (claim 5, lines 5-7).

Regarding claim 6 of the instant application:

- On lines 1-2 "said second geographic location is a stadium which is adapted and configured for playing football games therein" corresponds to U.S. Patent No. 6,252,547, claims 1 and 5, which fails to disclose said second geographic location is a stadium which is adapted and configured for playing football games therein. In an analogous art, Madison teaches "blackout", wherein content providers may designate all local receivers within a certain distance from a sporting event as ineligible to receive a broadcast version of the sporting event, (paragraphs 11 and 16), wherein football games are included. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include said second geographic location is a

stadium which is adapted and configured for playing football games therein, as taught by Madison, for the benefit of applying "black out" to the broadcasts, preserving the rights of copyright owners of broadcast football games.

Regarding claim 7 of the instant application:

- On lines 1-3 "said programming component of said geographic location and programming request is a request for programming of a live football game being performed in said stadium" corresponds to U.S. Patent No. 6,252,547, claims 1 and 5, which fails to disclose said programming component of said geographic location and programming request is a request for programming of a live football game being performed in said stadium. In an analogous art, Madison teaches "blackout", wherein content providers may designate all local receivers within a certain distance from a sporting event as ineligible to receive a broadcast version of the sporting event, (paragraphs 11 and 16), wherein live football games are included. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include said programming component of said geographic location and programming request is a request for programming

of a live football game being performed in said stadium, as taught by Madison, for the benefit of applying "black out" to the broadcasts, preserving the rights of copyright owners of broadcast football games.

Regarding claim 8 of the instant application:

- On lines 1-3 "said set of business rule includes a software algorithm which relates to inclusion of said first street address in a first GIS boundary" corresponds to U.S. Patent No. 6,252,547, claims 1, 5, and 6, which fails to disclose determining inclusion of said first street address in a first GIS boundary. In an analogous art, Madison teaches controlling the distribution of content based upon the geographic area in which a requesting client resides (paragraph 11) for the benefit of restricting access to content to protect the rights of copyright owners (paragraph 16). It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include determining inclusion of said first street address in a first GIS boundary, as taught by Madison, for the benefit of restricting access to content to protect the rights of copyright owners.



Regarding claim 9 of the instant application:

- On line 1 "said first GIS boundary is a DMA" corresponds to U.S. Patent No. 6,252,547, claims 1, 5, and 6, which fails to disclose said first GIS boundary is a DMA. Examiner takes official notice of the use of DMAs (Designated Market Areas) as geographic areas is notoriously well known, as DMA are viewer market regions defined by the Neilson Media Research company and used to define viewership regions. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include said first GIS boundary is a DMA, for the benefit of using well defined geographic regions established by the Neilson Media Research company.

Regarding claim 10 of the instant application:

- On lines 1-4 "said set of business rules includes a software algorithm which relates to predicting a signal strength of a first terrestrially broadcast signal carrying first programming content to said first street address" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 6-8 "determining a signal strength signal representative of a strength of a terrestrially broadcast signal received at a predetermined location".

- On lines 4-5 "said programming component of said geographic location and programming request is a location television station news broadcast" corresponds to U.S. Patent No. 6,252,547, claim 11, which fails to disclose said programming component of said geographic location and programming request is a location television station news broadcast. Examiner takes official notice that it is notoriously well known in the art to provide local news broadcasts to requesting users over the internet, allowing users to view said news broadcasts on their computers, which provides the benefit of allowing users to access said news at their convenience. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclose by U.S. Patent No. 6,252,547 to include said programming component of said geographic location and programming request is a local television station news broadcast, for the benefit of allowing users to view local news broadcasts at their convenience.
- On lines 6-8 "wherein said step of processing said set of business rules results in an eligibility indication when said signal strength exceeds a predetermined threshold" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 9-13 "comparing said signal strength signal to a predetermined threshold and

generating in response thereto an electronic digital signal control signal for regulating access to electronic digital signals received at said predetermined location".

Regarding claim 13 of the instant application:

- On line 1, "A method of authorizing distribution of programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 1-2 "A method of regulating electronic digital communication signals".
- On lines 3-4 "providing a geographic location and programming request to an authorization server" corresponds to U.S. Patent No. 6,252,547, claim 11, line 3 "receiving an address of a predetermined location" which fails to disclose a programming request. In an analogous art, Madison, on paragraphs 16 and 33, teaches users access a website that offers regionally specific content, which is a programming request input, for the benefit of allowing users to access content of interest. It would have been obvious at the time to a person of ordinary skill in the art to modify the method of U.S. Patent No. 6,252,547 to include a programming request, as taught by Madison, for the benefit of allowing users to access content of interest.
- On lines 5-14 "returning a set of signal authorization algorithms which are stored in a database; wherein said signal authorization

algorithms are selected from said database based upon both a geographic location component and a programming component of said geographic location and programming request, said database includes at least one signal authorization algorithm which is not based solely upon a signal strength of a terrestrially broadcast signal; and processing said set of signal authorization algorithms to generate an indication of eligibility of reception of programming” corresponds to U.S. Patent No. 6,252,547, claim 11, lines 11-13 “...regulating access to electronic digital signals received at said predetermined location” which fails to disclose a set of signal authorization algorithms which are stored in a database; wherein said signal authorization algorithms are selected from said database based upon both a geographic location component and a programming component of said geographic location and programming request, said database includes at least one signal authorization algorithm which is not based solely upon a signal strength of a terrestrially broadcast signal; and processing said set of signal authorization algorithm to generate an indication of eligibility of reception of programming. In an analogous art, McNutt teaches a business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content (databases

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contain location information and identifies where different *types* of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of ensuring legal conformity by the distribution system. It would have been obvious at the time to a person of ordinary skill in the art to modify the method of U.S. Patent No. 6,252,547 to include a signal authorization algorithm database which includes a list of options which are available to users to a first location and includes a plurality of signal authorization algorithms used for authorizing content, as taught by McNutt, for the benefit of ensuring legal conformity of content distribution by the distribution system.

Regarding claim 14 of the instant application:

- On lines 1-2 "wherein said programming is television programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 12-13 "electronic digital signals received at said predetermined location" which fails to disclose television programming. In an analogous art Madison teaches receiving sporting event broadcasts at client systems (paragraph 16, wherein users outside the "black out" region may request the broadcasts), for the benefit of receiving conventional television programming. It would have been obvious at the time to a person of ordinary skill in the art to modify the

system disclosed by U.S. Patent No. 6,252,547 to include television programming, for the benefit of receiving conventional television programming.

Regarding claim 15 of the instant application:

- On lines 1-2 "wherein said programming is radio programming" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 12-13 "electronic digital signals received at said predetermined location", which fails to disclose radio programming. Examiner takes official notice that it is notoriously well known in the art to provide radio broadcast programming from a content server over the Internet, allowing users to enjoy radio broadcasts from their computers. It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include radio programming, for the benefit of allowing users to enjoy radio broadcast content from their computers.

9. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,252,547 in view of Madison and McNutt as applied to claim 2 above, and further in view of Craport et al. (5,796,634) [Craport].

Regarding claim 4 of the instant application:

- On lines 1-4 "wherein said geographic location and programming request includes a postal zip code and said authorization server is coupled to a location database/geocoder, which is adapted and configured to generate a first lat/lon reference which corresponds to said postal zip code" corresponds to U.S. Patent No. 6,252,547, claim 11, lines 3-5 "receiving an address of a predetermined location and generating a geographic reference signal having a predetermined signal format in response thereto" which fails to disclose returning latitude and longitude coordinates when provided with a zip code. In an analogous art, Craport teaches a location database which returns latitude and longitude coordinates when provided with a zip code, for the benefit of identifying a particular geographic zone associated with a location (col. 14, lines 26-51). It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by U.S. Patent No. 6,252,547 to include a location database which returns latitude and longitude coordinates when provided with a postal zip code, as taught by Craport, for the benefit of identifying a particular geographic zone associated with a postal zip code.

10. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,252,547 in view of Madison.

Regarding claim 11 of the instant application:

- On lines 1-2 "A system comprising a world-wide network" corresponds to U.S. Patent No. 6,252,547, claim 3 "said transmitter is a server coupled to the internet".
- On lines 3-4 "a client computer disposed at a first location and coupled via an internet connect to said world-wide computer network" corresponds to U.S. Patent No. 6,252,547, claim 2 "wherein said receiver is a personal computer" which is part of a receiver and transmitter combination (claim 1, lines 10-11), "wherein said transmitter is a server coupled to the internet" (claim 3).
- On lines 5-6 "said client adapted and configured via software therein to generate geographic location and programming requests" corresponds to U.S. Patent No. 6,252,547, claims 1 and 2, which fails to disclose said client adapted and configured via software therein to generate geographic location and programming requests. In an analogous art, Madison teaches generating geographic location and programming requests by client systems (the geographic location is provided by a



geographic cookie sent from a client, paragraph 32, and the programming request is a request for content from a web server by the client, paragraph 33), for the benefit of receiving regionally specific content (paragraph 16). It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by U.S. Patent No. 6,252,547 to include a client adapted and configured via software therein to generate geographic location and programming requests, as taught by Madison, for the benefit of receiving requested regionally specific content at a client system.

- On lines 7-10 "an authorization server, coupled to said world-wide computer network; said authorization server adapted and configured with software accessible thereto, to make an eligibility determination relating to deliver of programming to said client computer via said world-wide network" corresponds to U.S. Patent No. 6,252,547, claim 1, lines 10-14 "means for manipulating a combination of a receiver and a transmitter in response to said signal strength signal, so that access to a predetermined electronic digital signal can be alternatively enabled and disabled for said particular location".
- On lines 11-13 "said authorization server using a What Channels Server with a signal strength calculator for predicting

a strength of a terrestrial broadcast signal at said first location” corresponds to U.S. Patent No. 6,252,547, claim 1, lines 6-9 “means, responsive to said location signal, for generating a signal strength signal which is representative of a strength of a terrestrially broadcast television signal at said particular location”.

- On lines 14-15 “said authorization server using a distance from a point calculator to determine a separation of said first location from a geographic location” corresponds to U.S. Patent No. 6,252,547, claim 5, lines 6-7 “a Puckett point-in-polygon tester to compare said coordinates with points inside said geographic reception area”.
- On lines 15-16 “...of a stadium which is adapted and configured to be used for sporting events” corresponds to U.S. Patent No. 6,252,547, claims 1 and 5, which fail to disclose a stadium which is adapted and configured to be used for sporting events. In an analogous art, Madison teaches applying “blackout” to internet broadcasts, wherein content providers may designate all local receivers within a certain distance from a sporting event as ineligible to receive a broadcast version of the sporting event (paragraphs 11 and 16). It would have been obvious at the time to a person of ordinary skill in the art to modify the system of

U.S. Patent No. 6,252,547 to include a stadium which is adapted and configured to be used for sporting events, as taught by Madison, for the benefit of preserving "black out" rights to copyright owners of sporting events.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 12, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison in view of Horn et al. (US 2001/0022000A1) [Horn], Craport, McNutt, and Schneidewend.

Regarding claims 1 and 12, Madison discloses a system for authorizing broadcast reception (figs. 2 and 3) comprising:

an authorization server (host computer system 210, paragraph 26) which includes and is configured by software therein which receives a geographic location (geographic cookie, paragraphs 5 and 32) and programming request input (the content being requested by the client, for example, webpages and streaming media, paragraph 33);

said authorization server further includes a distance from a point calculator which supplies information used for authorization for availability of programming

to said first location based upon a geographic calculation that said first location is within a predetermined radius from a third location (known as "blackout", content providers may designate all local receivers within a certain distance from a sporting event as ineligible to receive a broadcast version of the sporting event, paragraphs 11 and 16);

said authorization server further including software and is configured to provide information used for authorization of programming to said first location if said first location is located in a GIS boundary, as determined by a GIS boundary computer (paragraph 11); and

said authorization server is configured to determine eligibility for said geographic location and programming request input and repetitively compute additional requests, including authorization denials determined by said authorization server (the system disclosed applied to a great many users accessing various websites, fig. 2, clients 231-236, and includes sending authorization denials, paragraphs 11 and 16).

Madison fails to disclose said authorization server further includes a What Channels Server that is configured by software to perform a signal strength calculation for a first location of a terrestrial broadcast signal, which is broadcast from a second location, wherein said signal strength calculation determines that a signal strength of said terrestrial broadcast signal at said first location exceeds a predetermined threshold; said authorization server further coupled to a location database which returns a lat/lon (latitude/longitude coordinates) when provided

with a street address; and a programming content and business rule database which includes a list of programming options which are available over various signal distribution mechanisms to said first location; and includes a plurality of business rules used for authorizing delivery of programming, and provides a location specific authorized content list which is a subset of said programming content database.

In an analogous art, Horn teaches providing wireless internet access through a proxy server (paragraph 62) wherein a central station receives transmission condition parameters that are used for calculating link quality reports, said parameters including the signal strength perceived by a mobile station (paragraphs 64 and 67), for the benefit of maintaining a link quality level, as when a maximum power level is being utilized by a base station for transmission (the measured power level exceeds a predetermined threshold at this point), the station must resort to other means to maintain the link's quality level (paragraphs 71 and 75).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison to include a server (base station) configured to perform a signal strength calculation for a first location of a terrestrial broadcast signal (signal strength measured at mobile station), which is broadcast from a second location (proxy server), wherein said signal strength calculation determines that a signal strength of said terrestrial broadcast signal at said first location exceeds a predetermined threshold, as taught by Horn, for the

benefit of maintaining a desired link quality level for receiving content at a client station.

Madison and Horn fail to disclose said authorization server is further coupled to a location database which returns a lat/lon (latitude/longitude coordinates) when provided with a street address; and a programming content and business rule database which includes a list of programming options which are available over various signal distribution mechanisms to said first location; and includes a plurality of business rules used for authorizing delivery of programming, and provides a location specific authorized content list which is a subset of said programming content database.

In an analogous art, Craport teaches a location database which returns latitude and longitude coordinates when provided with a street address, for the benefit of identifying a particular geographic zone associated with a location (col. 14, lines 26-51).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison and Horn to include a location database which returns latitude and longitude coordinates when provided with a street address, as taught by Craport, for the benefit of identifying a particular geographic zone associated with a street address.

Madison, Horn, and Craport fail to disclose said authorization server includes a programming content and business rule database which includes a list of programming options which are available over various signal distribution

mechanisms to said first location; and includes a plurality of business rules used for authorizing delivery of programming, and provides a location specific authorized content list which is a subset of said programming content database.

In an analogous art, McNutt teaches a content and business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content (databases contain location information and identifies where different types of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of restricting the provision of services only to those locations where it is legal or otherwise allowed to provide said services.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison, Horn, and Craport to include a content and business rule database which includes a list of options which are available to said first location and includes a plurality of business rules used for authorizing delivery of services, as taught by McNutt, for the benefit of restricting the provision of programming content only to those locations where it is legal or otherwise allowed to provide said programming content.

Madison, Horn, Craport, and McNutt fail to disclose providing a location specific authorized content list which is a subset of said programming content database.

In an analogous art, Schneidewend teaches creating content lists that are a subset (abbreviated list, col. 5, lines 9-14) of a complete list of available content

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which is generated based on records of used services (col. 5, lines 63-66) that are displayed for a particular location (list is generated for a particular user, col. 5, lines 36-38), for the benefit of allowing users to quickly navigate through available services and minimizing the confusion associated with an overlarge list (col. 5, lines 9-14).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison, Horn, Craport, and McNutt to include creating content lists that are a subset of a complete list of available content which is generated based on records of used services (unused services, such as denied requests for content, are thus excluded) that are displayed for a particular location, as taught by Schneidewend, for the benefit of allowing users to quickly navigate through a displayed list available services and minimizing confusion.

Regarding claim 16, Madison, Horn, Craport, McNutt, and Schneidewend disclose the system of claim 12, but fail to disclose the programming content database contains radio programming.

Examiner takes official notice that it is notoriously well known in the art to provide radio broadcast programming from a content server over the Internet, allowing users to enjoy radio broadcasts from their computers.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison, Horn, Craport, McNutt, and



Schneidewend to include radio programming, for the benefit of allowing users to enjoy radio broadcast content from their computers.

Regarding claim 17, Madison, Horn, Craport, McNutt, and Schneidewend disclose the system of claim 12, wherein said programming content database contains television programming (Madison teaches the content includes televised broadcasts of sporting events, paragraph 16).

13. Claims 2, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison in view of McNutt.

Regarding claims 2 and 13, Madison discloses a method for authorizing distribution of programming (paragraph 11) comprising the steps of:

providing a geographic location (geographic cookie, paragraph 32) and programming request (the content being requested by the client, for example, webpages and streaming media, paragraph 33) to an authorization server (host computer system 210, page 3, paragraph 26);

returning a business rule (regional restriction of sporting event broadcasts, paragraph 16);

wherein said business rule is selected based upon both a geographic location component and a programming component of said geographic location and programming request (the restriction of broadcast of a sporting event is based on both the geographic region from where a request is being made, and

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upon the programming being requested, namely, the sporting event, paragraph 16), said business rule is not based solely upon a signal strength of a terrestrially broadcast signal (the rule is based upon geographic location and content being requested); and

processing said business rule to generate an indication of eligibility of reception of programming (if the user lives within a restricted region, the user is ineligible to receive the content, paragraphs 11 and 16).

Madison fails to disclose returning a set of business rules which are stored in a database.

In an analogous art, McNutt teaches a business rule database which includes a list of options which are available to users to a first location and includes a plurality of business rules used for authorizing content (databases contain location information and identifies where different *types* of wagering are legal or allowed based on location, paragraphs 48 and 63), for the benefit of restricting the provision of different services only to those locations where it is legal or otherwise allowed to provide said services.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison to include returning a set of business rules stored in a database, as taught by McNutt, for the benefit of restricting the provision of plural different services and programming only to those locations where it is legal or otherwise allowed to provide said services and programming.

Regarding claim 14, Madison and McNutt disclose the method of claim 13, wherein said programming is television programming (Madison teaches the content includes televised broadcasts of sporting events, paragraph 16).

Regarding claim 15, Madison and McNutt disclose the method of claim 13, but fail to disclose the programming is radio programming.

Examiner takes official notice that it is notoriously well known in the art to provide radio broadcast programming from a content server over the Internet, allowing users to enjoy radio broadcasts from their computers.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison and McNutt to include radio programming, for the benefit of allowing users to enjoy radio broadcast content from their computers.

14. Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison and McNutt as applied to claim 2 above, and further in view of Craport.

Regarding claim 3, Madison and McNutt disclose the method of claim 2, but fail to disclose said geographic location and programming request includes a first street address and said authorization server is coupled to a location database, which is configured to generate a first lat/lon reference which corresponds to said first street address.

In an analogous art, Craport teaches a location database which returns latitude and longitude coordinates when provided with a street address, for the benefit of identifying a particular geographic zone associated with a location (col. 14, lines 26-51).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison and McNutt to include a location database which returns latitude and longitude coordinates when provided with a street address, as taught by Craport, for the benefit of identifying a particular geographic zone associated with a street address.

Regarding claim 4, Madison and McNutt disclose the method of claim 2, wherein the geographic location and programming request includes a postal zip code (Madison, paragraph 32, wherein the geographic cookie includes the zip code of the client), but fail to disclose said authorization server is coupled to a location database, which is configured to generate a first lat/lon reference which corresponds to said postal zip code.

In an analogous art, Craport teaches a location database which returns latitude and longitude coordinates when provided with a zip code, for the benefit of identifying a particular geographic zone associated with a location (col. 14, lines 26-51).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Madison and McNutt to include a location

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database which returns latitude and longitude coordinates when provided with a postal zip code, as taught by Craport, for the benefit of identifying a particular geographic zone associated with a postal zip code:

Regarding claim 5, Madison, McNutt, and Craport disclose the method of claim 3, wherein said set of business rules includes a software algorithm which relates to distance from a point calculation which analyzes a distance separation between said first street address and a second geographic location (Madison discloses applying "black out", paragraphs 5 and 16, wherein "black out" is the restriction of a broadcast sporting event to viewers within a certain distance from the venue from where the sporting event is taking place, as such the second geographic location is said venue at which a live sporting event is taking place).

Regarding claims 6 and 7, Madison, McNutt, and Craport disclose the method of claim 5, but fail to disclose said second geographic location is a stadium configured for playing football games therein and said programming component of said geographic location and programming request is a request for programming of a live football game being performed in said stadium.

Examiner takes official notice that the use of "black out" by content providers is used for restricting access to the broadcast of live football games to users within a certain distance of the stadium in which said game is taking place. The use of "black out" for sportings event, specifically football games, is a right

granted to the NFL by the FCC. Said right entitles the NFL, the content provider for live broadcast football games, to the ability to restrict the broadcast of said football game in the event a certain amount of seats (tickets) have not been sold at the stadium in which the game is taking place.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison, McNutt, and Craport to include second geographic location is a stadium configured for playing football games therein and said programming component of said geographic location and programming request is a request for programming of a live football game being performed in said stadium, for the benefit of allowing certain clients to watch a live football game being broadcast while restricting others according to FCC regulations.

Regarding claim 8, Madison, McNutt, and Craport disclose the method of claim 3, wherein said set of business rules includes a software algorithm which relates to includes of said first street address in a first GIS boundary (Madison teaches comparing a client's location with a specified geographic area to determine eligibility to receive requested data, paragraph 11).

Regarding claim 9, Madison, McNutt, and Craport disclose the method of claim 8, but fail to disclose said first GIS boundary is a DMA.

Examiner takes official notice that it is notoriously well known in the art to utilize DMAs (Designated Market Areas) for determining content availability, as DMAs are the local market definition used by the Nielsen Media Research company to designate regionally specific viewership markets, and as such are very valuable tools used by content providers when deciding what content to provide to what areas, as DMAs are determined based on the viewing habits by the majority.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison, McNutt, and Craport to include said first GIS boundary is a DMA, for the benefit of utilizing a monitored a well defined viewership region when determining regions in which to provide programming.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madison, McNutt, and Craport as applied to claim 3 above, and further in view of Ahlenius et al. (5,859,839) [Ahlenius].

Regarding claim 10, Madison, McNutt, and Craport disclose the method of claim 3, but fail to disclose said set of business rules includes a software algorithm which relates to predicting a signal strength of a first terrestrially broadcast signal carrying first programming content to said first street address and said programming component of said geographic location and programming request is a local television station news broadcast; wherein said step of

processing said set of business rule results in an eligibility indication when said signal strength exceeds a predetermined threshold.

In an analogous art, Ahlenius teaches using a software algorithm which relates to predicting the signal strength of a first terrestrially broadcast signal at any particular point in a geographic area (col. 4, lines 48-58, wherein subtracting the pathloss from an input power signal results in the signal strength at that point), for the benefit of determining the boundaries of the coverage area of any given broadcast source (col. 4, lines 38-47, wherein significant pathloss represents a boundary region from a broadcast source).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison, McNutt, and Craport to include in said set of business rules a software algorithm which relates to predicting a signal strength of a first terrestrially broadcast signal carrying first programming content to a particular point in a geographic area (said first street address), as taught by Ahlenius, for the benefit of determining the boundaries of the coverage area of any given broadcast source, such as a television broadcaster. This combination results in said step of processing said set of business rule results in an eligibility indication when said signal strength exceeds a predetermined threshold, because Madison teaches providing geographically localized data only in certain geographic regions (paragraph 16), and locally broadcast data is considered localized data to those customers within range of receiving it.



Madison, McNutt, Craport, and Ahlenius fail to disclose said programming component of said geographic location and programming request is a local television station news broadcast.

Examiner takes official notice that it is notoriously well known in the art to provide local news broadcasts to requesting users over the internet, allowing users to view said news broadcasts on their computers, which provides the benefit of allowing users to access said news at their convenience.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison, McNutt, Craport, and Ahlenius to include said programming component of said geographic location and programming request is a local television station news broadcast, for the benefit of allowing users to view local news broadcasts at their convenience.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madison in view of Ahlenius.

Regarding claim 11, Madison discloses a system comprising:

a world wide network (computer network 220 in fig. 2 is the Internet, paragraph 27);

a client computer disposed at a first location (client 231 in fig. 2) and coupled via an internet connection to said world wide computer network (paragraph 27);

said client configured via software therein to generate geographic location (geographic cookie, paragraphs 5 and 32) and programming requests (the content being requested by the client, for example, webpages and streaming media, paragraph 33);

an authorization server (host computer system 210, paragraph 26), coupled to said world wide computer network (as shown in fig. 2);

said authorization server configured with software accessible thereto, to make an eligibility determination relating to delivery of programming to said client computer via said world wide network (paragraphs 11 and 16); and

said authorization server using a distance from a point calculator to determine a separation of said first location from a geographic location of a stadium which is configured to be used for sporting events (known as "blackout", content providers may designate all local receivers within a certain distance from a sporting event as ineligible to receive a broadcast version of the sporting event, paragraphs 11 and 16).

Madison fails to disclose said authorization server use a What Channels Server with a signal strength calculator for predicting a strength of a terrestrial broadcast signal at said first location.

In an analogous art, Ahlenius teaches a server using a software algorithm which relates to predicting the signal strength of a first terrestrially broadcast signal at any particular point in a geographic area (col. 4, lines 48-58, wherein subtracting the pathloss from an input power signal results in the signal strength

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at that point), for the benefit of determining the boundaries of the coverage area of any given broadcast source (col. 4, lines 38-47, wherein significant pathloss represents a boundary region from a broadcast source).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Madison to include a server running a software algorithm which relates to predicting a signal strength of a first terrestrially broadcast signal carrying first programming content to a particular point in a geographic area (said first location), as taught by Ahlenius, for the benefit of determining the boundaries of the coverage area of any given broadcast source, such as a television broadcaster.

### ***Conclusion***

17. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

  
**CHRISTOPHER GRANT**  
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